

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16979 of 2014

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KRISHNANAND JHA, SON OF SADANAND JHA RESIDENT OF VILLAGE
HUSASH, POST OFFICE HULASH, POLICE STATION RAGHOPUR DISTRICT
SUPAUL Petitioner

Versus

The State of Bihar & Ors Respondents

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Appearance :

For the Petitioner/s : Mr. Subodh K.Jha, Advocate
Mr. B.K.Mishra, Advocate
For the Respondent/s : Mr. S.K.Jha, AC to GP 3.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 21-12-2015 The petitioner prays for quashing of order contained in letter no. 2552 dated 30.11.2012 issued under the signature of respondent no.6 by which he was superannuated with effect from 31.12.2012.

The petitioner has assailed the impugned order primarily on the ground that he would be completing 60 years of age on 13.12.2016 and as such he could not be superannuated prior to reaching the aforesaid age. He submits that earlier the retirement age of the teachers was 58 which was enhanced to 60 years in 2005 under Rule 73 of the Bihar Service Code, 1952.

Counsel for the State submits that the petitioner's own case is that he was appointed on 3.12.1970 in the Middle School, Kumiahi as temporary assistant teacher and latter on the school was taken over by the Government in the year 1976 in view of the Government policy. He thus submits that as per



policy decision, minimum age for appointment is 18 years and a person cannot be permitted to be in service beyond maximum of 42 years as the retiring age is now 60 years. In reply, the petitioner submits that the said Middle School was a private institution in the year 1970 and at the time of appointment he was of under age. He further submits that the certificate produced by him has been accepted throughout by the Department and now after 35-40 years it would not be open to them to doubt the validity of the same in absence of any materials to the contrary. He further submits that similar matter came up for consideration in Court in CWJC No. 5424 of 2012 in the case of Vinod Kumar Yadav Vs State of Bihar and others and CWJC No. 9031 of 2014 (Rajesh Prasad Yadav Vs. State of Bihar and others) disposed of 15.5.2014.

Case of petitioner stands on similar footing. As such, the writ petition succeeds and impugned order dated 30.11.2012 is set aside. The instant writ petition would be governed by ratio decided in aforesaid orders.

(Samarendra Pratap Singh, J)

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